

## HB0228S02 compared with HB0228S01

~~deleted text~~ shows text that was in HB0228S01 but was deleted in HB0228S02.

Inserted text shows text that was not in HB0228S01 but was inserted into HB0228S02.

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Representative A. Cory Maloy proposes the following substitute bill:

### TOWING REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: A. Cory Maloy**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill revises provisions related to towing, including signage requirements, preemption of local laws, abandonment of a vehicle, and towing rotations.

##### Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends provisions related to state impound yards, including provisions related to local zoning that impact state impound yards;
- ▶ outlines the requirements for signs in private lots enforced by towing;
- ▶ prohibits towing from a private lot if certain signage requirements are not met;
- ▶ requires law enforcement to issue a citation for an individual's failure to retrieve a towed vehicle;

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- ▶ amends provisions related to preemption of additional towing regulations by a political subdivision except where provided in statute;
- ▶ enacts statewide standards for inclusion on a towing rotation;
- ▶ requires a political subdivision or state agency to provide an appeals process regarding suspension or removal from a towing rotation; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**41-1a-102**, as last amended by Laws of Utah 2018, Chapters 166 and 424

**41-1a-1101**, as last amended by Laws of Utah 2018, Chapter 29

**41-6a-1406**, as last amended by Laws of Utah 2017, Chapters 100 and 261

**72-9-102**, as last amended by Laws of Utah 2017, Chapter 96

**72-9-603**, as last amended by Laws of Utah 2017, Chapter 298

**72-9-604**, as last amended by Laws of Utah 2017, Chapter 298

#### ENACTS:

**72-9-607**, Utah Code Annotated 1953

**72-9-608**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **41-1a-102** is amended to read:

#### **41-1a-102. Definitions.**

As used in this chapter:

- (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.
- (2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.
- (3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

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(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

- (a) an electric motor vehicle;
- (b) a hybrid electric motor vehicle;
- (c) a plug-in hybrid electric motor vehicle; or
- (d) a motor vehicle powered by a fuel other than:
  - (i) motor fuel;
  - (ii) diesel fuel;
  - (iii) natural gas; or
  - (iv) propane.

(7) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(10) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(11) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(12) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(13) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or

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maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the

owner's commercial enterprise.

(14) "Commission" means the State Tax Commission.

(15) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(16) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(17) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(18) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(19) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(20) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(21) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(22) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of

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agricultural products.

(23) "Fleet" means one or more commercial vehicles.

(24) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(25) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(26) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(27) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(28) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(29) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(30) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(31) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(32) "Jurisdiction" means a state, district, province, political subdivision, territory, or

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possession of the United States or any foreign country.

(33) "Lienholder" means a person with a security interest in particular property.

(34) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(35) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(36) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(37) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(38) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(39) "Motorboat" means the same as that term is defined in Section 73-18-2.

(40) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an auticycle.

(41) "Natural gas" means a fuel of which the primary constituent is methane.

(42) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is

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considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(43) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(44) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(45) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(46) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(47) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(48) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(49) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(50) "Personalized license plate" means a license plate that has displayed on it a

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combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(51) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(52) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(53) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(54) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(55) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(56) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(57) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(58) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(59) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(60) (a) "Registration year" means a 12 consecutive month period commencing with

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the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(61) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(62) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(63) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(64) "Sailboat" means the same as that term is defined in Section 73-18-2.

(65) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(66) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(67) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

(68) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (68)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

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- (ii) a make or model of motor vehicle produced in limited or token quantities;
- (iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or
- (iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(69) (a) "Special mobile equipment" means every vehicle:

- (i) not designed or used primarily for the transportation of persons or property;
- (ii) not designed to operate in traffic; and
- (iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

- (i) farm tractors;
- (ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and
- (iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(70) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(71) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

~~[(71)]~~ (72) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

~~[(72)]~~ (73) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during

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the preceding year.

~~[(73)]~~ (74) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

~~[(74)]~~ (75) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

~~[(75)]~~ (76) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

~~[(76)]~~ (77) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

~~[(77)]~~ (78) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

~~[(78)]~~ (79) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

~~[(79)]~~ (80) "Vessel" means the same as that term is defined in Section 73-18-2.

~~[(80)]~~ (81) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

~~[(81)]~~ (82) "Waters of this state" means the same as that term is defined in Section 73-18-2.

~~[(82)]~~ (83) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section **41-1a-1101** is amended to read:

### **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

(1) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

- (a) that the division or the peace officer has reason to believe has been stolen;
- (b) on which any identification number has been defaced, altered, or obliterated;
- (c) that has been abandoned in accordance with Section 41-6a-1408;

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(d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

(e) that is placed on the water with improper registration;

(f) that is being operated on a highway;

(i) with registration that has been expired for more than three months;

(ii) having never been properly registered by the current owner; or

(iii) with registration that is suspended or revoked; or

(g) (i) that the division or the peace officer has reason to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

(ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7.

(2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer, without a warrant:

(i) shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 and the vehicle was involved in an accident; or

(ii) may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 after the division or any peace officer makes a reasonable determination whether the vehicle would:

(A) present a public safety concern to the operator or any of the occupants in the vehicle; or

(B) prevent the division or the peace officer from addressing other public safety considerations.

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection (2)(a):

(i) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803; or

(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security

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as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

(3) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

(4) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

(c) A crusher, dismantler, or salvage dealer ~~is~~ may not operate as a state impound yard unless the crusher, dismantler, or salvage dealer meets all of the requirements for a state impound yard set forth in this section and rules made in accordance with Subsection (5)(a).

(d) (i) Rules made by the commission shall include a requirement that a state impound yard ~~be enclosed with~~ have opaque fencing ~~which may be an~~ on any side of the state impound yard that has frontage with a highway.

(ii) The opaque fencing described in Subsection (5)(d)(i) may be opaque chain link ~~fence.~~

~~(6) (a) A public garage, an impound lot, an impound yard, or a state impound yard is a permitted use in any:~~

~~(i) manufacturing or industrial zone in the relevant municipality or county; and~~

~~(ii) zone that includes as a permitted use an autobody repair shop, an automotive repair shop, a used car lot, or similar use.~~

~~(b) A municipality or county may permit a public garage, an impound lot, an impound yard, or a state impound yard in any zoning district within the relevant municipality or county.~~

~~[(6)] (7) fencing.~~

(6) (a) Except as provided under Subsection ~~[(6)] (7)~~ (b), a person may not operate

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or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection ~~§(6)~~~~§(7)~~(a).

~~§(7)~~~~§(8)~~ A person who violates the provisions of Subsection ~~§(6)~~~~§(7)~~ is guilty of a class C misdemeanor.

~~§(8)~~~~§(9)~~ The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

- (a) the vehicle is equipped with an odometer; and
- (b) the odometer reading is accessible to the division or the peace officer.

Section 3. Section **41-6a-1406** is amended to read:

**41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to~~[(a)]~~ a state impound yard~~[-or]~~ as defined in Section 41-1a-102.

~~[(b) if none, a garage, docking area, or other place of safety.]~~

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

- (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- (b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

- (i) the peace officer or agency by whom the peace officer is employed; and
- (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

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(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

- (i) the operator's name, if known;
- (ii) a description of the vehicle, vessel, or outboard motor;
- (iii) the vehicle identification number or vessel or outboard motor identification number;
- (iv) the license number, temporary permit number, or other identification number issued by a state agency;
- (v) the date, time, and place of impoundment;
- (vi) the reason for removal or impoundment;
- (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and
- (viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

- (i) collect any fee associated with the removal; and
- (ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

- (i) the registered owner;
- (ii) any lien holder; or
- (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

- (i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;
- (ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

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(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

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(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the

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fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 4. Section **72-9-102** is amended to read:

### **72-9-102. Definitions.**

As used in this chapter:

(1) (a) "Central office" means a central place of business of a tow truck motor carrier located within a 10 mile radius of each state impound yard owned or operated by the tow truck motor carrier.

(b) "Central office" does not include a remote state impound yard owned or operated by the tow truck motor carrier.

~~(1)~~ (2) (a) "Commercial vehicle" includes:

(i) an interstate commercial vehicle; and

(ii) an intrastate commercial vehicle.

(b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time

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training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks;

(iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes; or

(iv) vehicles owned by the state or a local government.

~~[(2)]~~ (3) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:

(a) has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(b) is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(d) (i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and

(ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

~~[(3)]~~ (4) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:

(a) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(b) is designed to transport more than 15 passengers, including the driver; or

(c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

~~[(4)]~~ (5) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.

(6) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as

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that term is defined in Section 41-1a-102.

~~(6)~~(7) "Property owner" means the owner or lessee of real property.

~~(7)~~(8) "State impound yard" means the same as that term is defined in Section 41-1a-102.

~~(5)~~ ~~(8)~~(9) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

~~(9)~~(10) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services.

~~(10)~~(11) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an ~~agent~~independent contractor on behalf of a tow truck motor carrier.

~~(6)~~ ~~(11)~~(12) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

~~(7)~~ ~~(12)~~(13) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the apparent authority and with the knowledge of the motor carrier.

Section 5. Section **72-9-603** is amended to read:

**72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.**

(1) Except for a tow truck service that was ordered by a peace officer, ~~[or]~~ a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

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(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) vehicle, vessel, or outboard motor's description, including ~~[its]~~ the vehicle's identification number and license number or other identification number issued by a state agency;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection ~~[(7)]~~ (13)(e).

(2) ~~[(a)]~~ Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

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~~[(†) (a) collect any fee associated with the removal; or~~

~~[(†) (b) begin charging storage fees.~~

~~[(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):]~~

~~[(A) a mobile home park as defined in Section 57-16-3; or]~~

~~[(B) a multifamily dwelling of more than eight units.]~~

~~[(ii) Signage under Subsection (2)(b)(i) shall display:]~~

~~[(A) where parking is subject to towing; and]~~

~~[(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or]~~

~~[(H) one of the following:]~~

~~[(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or]~~

~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.]~~

~~[(c) Signage is not required under Subsection (2)(b) for parking in a location:]~~

~~[(i) that is prohibited by law; or]~~

~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~

~~[(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.]~~

(3) (a) Except as provided in Subsection (3)(b) or (7), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge ~~at any privately owned property~~ without appropriate signage that meets the requirements of Subsection (5) or (6) ~~at~~ at the following locations:

(i) any privately owned commercial property; or

(ii) any multi-unit residential complex with nine or more units.

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(b) Signage is not required under Subsection (3)(a) or (4) for parking in a location:

(i) that is prohibited by law; ~~for~~

(ii) if it is reasonably apparent that the location is not open to parking as described in Subsection (4)(a)(iii);

~~;~~

(iii) that is a single family residential dwelling; or

(iv) that is a multi-unit residential complex of 8 or fewer units.

(c) A property owner shall ensure that the signage ~~described~~ required in this section is erected before October 1, 2020.

(d) Nothing in Subsection (3) or (4) restricts the ability of a property owner of a privately owned property from instituting and enforcing regulations on parking.

(4) (a) Subject to the requirements in Subsections (5) through (7), a property owner may enforce parking restrictions by:

(i) entering into a contract with a tow truck motor carrier that has a towing certificate that will patrol and monitor the lot and enforce parking restrictions on behalf of the property owner;

(ii) enforcing parking restrictions as needed by requesting a tow from a tow truck motor carrier;

(iii) (A) erecting a physical barricade to prevent access to a property; or

(B) erecting signs to indicate that no parking is allowed, which signs are not required to comply with Subsection (5) or (6); or

(iv) for a property described in Subsection (3)(b), or where erecting signs to notify of parking restrictions is not feasible or practical, ~~reporting~~ requesting a ~~parking violation to a peace officer within the jurisdiction~~ towing service from a certified tow truck motor carrier.

(b) (i) The contract described in Subsection (4)(a)(i) between a property owner and a tow truck motor carrier shall clearly state the rules for the tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the property.

(ii) In addition to the signage described in Subsection (5), a property owner shall erect appropriate signage on the property indicating clear instructions for parking on the property.

(5) For private property where parking is enforced by a tow truck motor carrier or tow truck operator as described in Subsection (4)(a), the property owner shall ensure that each

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entrance to the property has the following signs clearly visible to the driver of a vehicle entering the property:

(a) a top sign that is 24 inches tall by 18 inches wide that has:

(i) a blue, reflective background with a 1/2 inch white, reflective border;

(ii) two-inch, white, reflective letters at the top of the sign with the words "private property";

(iii) a white, reflective towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and the entire car being towed; and

(iv) two-inch, white, reflective letters at the bottom of the sign with the words "towing enforced"; and

(b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and that has:

(i) a top half that is red, reflective background with white, reflective letters that provides:

(A) who is allowed to park or restricted from parking in the lot; and

(B) any type of vehicle prohibited from parking in the lot; and

(ii) a bottom half that is white, reflective background with red, reflective letters that indicate:

(A) the name and telephone number of the tow truck motor carrier that has been contracted to patrol the lot; and

(B) the Internet web address "tow.utah.gov."

(6) For a lot where parking is enforced by requesting a tow on a case by case basis as described in Subsection (4)(b), the property owner shall ensure that each entrance to the lot has clearly visible a sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and that has:

(a) in the top eight inches of the sign, a blue, reflective background with a white, reflective towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and the entire car being towed;

(b) in the middle eight inches of the sign, a red, reflective background with white, reflective letters indicating:

(i) who is allowed to park or restricted from parking in the lot; and

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(ii) any type of vehicle prohibited from parking in the lot; and

(c) in the bottom eight inches of the sign, a white, reflective background with red, reflective letters that indicate:

(i) the name and telephone number of the tow truck motor carrier that has been contracted to provide towing services for the lot; and

(ii) the Internet web address "tow.utah.gov."

(7) For ~~a property described in Subsection (3)(b), or~~ private property where a physical barricade prevents access to the property as described in Subsection (4)(a)(iii), or for a property where erecting signs to notify of parking restrictions is not feasible or practical as described in Subsection (4)(a)(iv), the property owner may ~~request a peace officer~~:

(a) ~~(i)~~ mark a vehicle, vessel, or outboard motor indicating a parking violation; ~~or~~

~~(b) ~~ii~~ provide to the property owner a case number; and~~

~~(c) request that a certified tow truck motor carrier mark a vehicle, vessel, or outboard motor indicating a parking violation; and~~

(b) 24 hours after the vehicle, vessel, or outboard motor was marked, request the vehicle, vessel, or outboard motor be towed by a certified tow truck motor carrier.

(8) (a) The department shall publish on the department Internet website the signage requirements and illustrated or photographed examples of the signage described in Subsections (5) and (6).

(b) Signs required under this section shall be erected on private property, outside the public right-of-way.

~~(3)~~ (9) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection ~~[(7)]~~ (13); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

~~(4)~~ (10) (a) The fees under Subsection ~~[(3)]~~ (9) are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

(b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,

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vessel, or outboard motor and items described in Subsection ~~[(4)]~~ (10)(a) in an approved state impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:

- (i) pays the fees described in Subsection ~~[(3)]~~ (9); and
- (ii) removes the vehicle, vessel, or outboard motor from the ~~[secure storage facility]~~ state impound yard.

~~[(5)(a)]~~ (11) (a) (i) For a vehicle, vessel, or outboard motor that is towed by order of a peace officer, a person acting on behalf of a law enforcement agency, or a highway authority, the owner of the vehicle, vessel, or outboard motor shall ~~take possession of the vehicle from~~ make contact with the tow truck motor carrier within five business days of the report described in Subsection 41-6a-1406(4).

(ii) An owner of a vehicle, vessel, or outboard motor that fails to ~~take possession of~~ make contact with the ~~{vehicle, vessel, or outboard}~~ tow truck motor carrier as required in Subsection (11)(a)(i) is guilty of an infraction and the court may impose a fine of up to \$300.

(iii) (A) If an owner of a vehicle, vessel, or outboard motor fails to ~~take possession of~~ make contact with the ~~{vehicle, vessel, or outboard}~~ tow truck motor carrier as required in Subsection (11)(a)(i), the tow truck motor carrier may request the issuance of a citation.

(B) If a tow truck motor carrier requests a citation as described in Subsection (11)(a)(iii)(A), the law enforcement agency with jurisdiction for the area in which the state impound yard and the vehicle, vessel, or outboard motor are located shall issue the citation.

(C) A law enforcement agency may issue a citation described in this Subsection (11)(a) by mailing the citation to the address of the owner indicated on the registration for the vehicle.

~~[(5)(a)]~~ (b) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

- (i) pay the fees described in Subsection ~~[(3)]~~ (9); and
- (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

~~[(b)]~~ (c) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

~~[(6)]~~ (12) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for

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tow truck service and storage of a vehicle in accordance with rules established under Subsection [(7)] (13).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

[(7)] (13) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~Department of Transportation~~] department shall:

(a) subject to the restriction in Subsection [(8)] (14), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection [(7)] (13)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the

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removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

~~[(8)]~~ (14) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(15) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (13).

~~[(9)]~~ ~~(b;ii)~~ In addition to the maximum rates established under Subsection ~~[(7)]~~ (13) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (13).

~~[(10)]~~ (16) (a) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

~~[(a)]~~ (i) by phone 24 hours a day, seven days a week; and

~~[(b)]~~ (ii) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

(b) If the owner of the vehicle, vessel, or outboard motor fails to contact the tow truck motor carrier or impound yard within 12 hours of when the vehicle, vessel, or outboard motor was towed, the tow truck motor carrier or impound yard is only required to make personnel available to release the vehicle, vessel, or outboard motor to the owner during normal business hours Monday through Friday, except for designated state and federal holidays.

Section 6. Section **72-9-604** is amended to read:

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### 72-9-604. Preemption of local authorities -- Tow trucks.

(1) (a) ~~{}~~Notwithstanding ~~{}~~Except as authorized in this section, notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, ~~[or] tow truck~~~~{}~~, or an impound yard that conflicts with: ~~{}~~or impound yard.

~~{}~~(i) any provision of this part;~~{}~~

~~{}~~(ii) Section 41-6a-1401;~~{}~~

~~{}~~(iii) Section 41-6a-1407; ~~[or]~~

~~{}~~(iv) rules made by the department under this part~~[-];~~ or

(v) rules made by the State Tax Commission under Section 41-1a-1101.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(2) A tow truck motor carrier that has a county or municipal business license for a ~~[place of business]~~ central office located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a ~~[business location]~~ central office in the other county or municipality.

(3) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

(4) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

(5) (a) A tow truck shall be subject to only one annual safety inspection under

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Subsection (4)(b).

(b) A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

(6) (a) If a political subdivision or state agency requires the removal of a vehicle, vessel, or outboard motor in response to a request by an authorized peace officer for a tow truck service, the political subdivision or state agency may use only a tow truck motor carrier and tow truck operator that possesses a current and valid towing certificate by the department as described in Section 72-9-602.

(b) A political subdivision or state agency may not deny a tow truck motor carrier inclusion on the political subdivision or state agency's rotation or list for the removal of a vehicle, vessel, or outboard motor in response to a request by a peace officer for a tow truck service if the tow truck motor carrier possesses a current and valid towing certificate issued by the department as described in Section 72-9-602.

(c) (i) Before a political subdivision or state agency may suspend or remove a tow truck motor carrier or a tow truck operator from the political subdivision's or state agency's tow rotation, the political subdivision or state agency shall provide due process to the tow truck motor carrier or tow truck operator as described in Section 72-9-608.

(ii) Upon application by a tow truck motor carrier to the towing rotation of a political subdivision or state agency, the political subdivision or state agency shall provide to the tow truck motor carrier a written explanation of the due process and hearing procedure for suspension or removal of a tow truck motor carrier or tow truck operator from the towing rotation as described in Section 72-9-608.

(d) Upon application by a tow truck motor carrier to the towing rotation of a political subdivision or state agency, the political subdivision or state agency shall provide to the tow truck motor carrier the policies pertaining to the towing rotation established in accordance with ~~Subsection~~ Section 72-9-607~~(4)~~.

Section 7. Section **72-9-607** is enacted to read:

### **72-9-607. Towing rotations.**

(1) For purposes of this section, "towing entity" means a peace officer, local highway authority, political subdivision, or state agency that initiates a tow of a vehicle, vessel, or outboard motor.

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(2) To facilitate nonconsent tows or tows requested by a towing entity, a towing entity shall create and maintain a towing rotation list of approved tow truck motor carriers in the area as described in this section.

(3) (a) ~~{In order to be considered for inclusion}~~ **A towing entity may not limit the number of tow truck motor carriers allowed** on a towing rotation list ~~{ for a towing entity, a tow truck motor carrier shall complete and submit a towing rotation application.~~

~~\_\_\_\_\_ (b) The towing rotation application shall include only:~~

~~\_\_\_\_\_ (i) the date of the application;~~

~~\_\_\_\_\_ (ii) the business name of the tow truck motor carrier;~~

~~\_\_\_\_\_ (iii) the address of the tow truck motor carrier;~~

~~\_\_\_\_\_ (iv) a 24-hour phone number of the tow truck motor carrier for use of the dispatcher of the towing entity;~~

~~\_\_\_\_\_ (v) a copy of the towing certificate issued by the department for the tow truck motor carrier;~~

~~\_\_\_\_\_ (vi) a copy of the towing certificate issued by the department for each tow truck driver that works for the tow truck motor carrier;~~

~~\_\_\_\_\_ (vii) the address and yard number of all state impound yards, including a central office and satellite yards, that would apply to the rotation for which the application is being submitted; and~~

~~\_\_\_\_\_ (viii) a signature line with a declaration that the contents of the application are true and correct.~~

~~\_\_\_\_\_ (c).~~

(b) A towing entity ~~{shall include}~~ **may not accept** a tow truck motor carrier on ~~{the}~~ **a** towing rotation list if the tow truck motor carrier ~~{submits a completed application, and:~~

~~\_\_\_\_\_ (i) the tow truck motor carrier, tow truck, and tow truck operator possesses} **does not possess** a current and valid towing certificate issued by the department as described in Section 72-9-602 ~~{, and~~~~

~~\_\_\_\_\_ (ii) }.~~

(c) **A towing entity may not exclude a tow truck motor carrier from the towing rotation list based on the location of the tow truck motor carrier's impound yard if the tow truck motor carrier operates an impound yard that is:**

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(A)i located within a one-mile radius of the political subdivision or multiple political subdivisions that are part of the same towing rotation in which the towing service is requested;  
or

(B)ii for a towing rotation operated by a county, located within a one-mile radius of the county in area served by the towing rotation for which the towing service is requested.

(d) A towing entity may not charge an applicant for inclusion on a towing rotation:

(i) an application fee;

(ii) dispatch charges; or

(iii) any other cost associated with administering a towing rotation.

(e) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(4) (a) Each towing entity shall establish policies for the towing rotation consistent with this chapter and with any applicable administrative rules pertaining to towing made by the department, the State Tax Commission, or the Department of Public Safety.

(b) A towing entity shall ensure each tow truck motor carrier that meets the application requirements in Subsection (3) has equal access to the towing rotation.

(5) (a) Each towing entity shall establish a reasonable time within which a tow truck operator shall report to the specified location after being dispatched.

(b) Subject to considerations of weather, traffic, and public safety, if a tow truck motor carrier is dispatched, the tow truck operator shall report to the specified location within the time required by the towing entity under Subsection (5)(a).

(6) (a) If a tow truck motor carrier is dispatched, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

(b) A tow truck operator may work for more than one tow truck motor carrier.

Section 8. Section **72-9-608** is enacted to read:

### **72-9-608. Required process before removal from towing rotation.**

(1) Each political subdivision or state agency that establishes a towing rotation as described in Section 72-9-607 shall establish a policy for an appeals process to hear and decide appeals from a decision to suspend or remove a tow truck motor carrier or tow truck operator

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from a towing rotation.

(2) In conducting an appeal as described in Subsection (1):

(a) the appeal process may be conducted by a single appeal officer or a panel; and

(b) an individual hearing an appeal, whether as a single appeal officer or as part of a panel, may not be the same individual who made the decision to suspend or remove the tow truck motor carrier or tow truck operator from the towing rotation.